

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09CR17**

UNITED STATES OF AMERICA,

Vs.

ALBERT CHARLES BURGESS.

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ORDER

THIS MATTER is before the court on defendant's

- (1) Motion for Materials Under Brady and Bagley (#108);
- (2) Motion to Dismiss Count 1 + 2 of the Indictment and Subsequent Conviction -Double Jeopardy (#109);
- (3) Motion to Dismiss Count 2 of the Indictment and Subsequent Conviction -Ex Post Facto Violation (#110);
- (4) Motion for Request for Instructions from Clerk of Court Concerning Method to Subpoena Documents (#116);
- (5) Motions of Defendant (#117);
- (6) Motion of Defendant fo Issuance of Subpoenas Duces Tecum”(#118), filed April 29, 2010;
- (7) Motion for a New Trial Under the Cumulative Application of FRCrP 33(a), 48, and LRCrP WDNC 471.1(h)” (#119); and
- (8) Motion for Sanctions Against the U.S. Attorney (#120).

Also before the court is the government's Motion for Extension of Time (#113), filed April 23, 2010, seeking an enlargement of time to respond to defendant's motions. See L.Cr.R. 47.1(D). The government's request will be granted and the government allowed to file a consolidated response to all motions now pending by May 18, 2010. Inasmuch as defendant is not an ECF participant, the court would request that the government make arrangements for defendant to receive such response not later than May 18, 2010, so that he can be prepared for the hearing. All motions will be set for hearing on May 20, 2010, at 10:30 a.m. in Courtroom #2 in Asheville.

ORDER

IT IS, THEREFORE, ORDERED that the government's Motion for Extension of Time (#113), is **ALLOWED**, and the government is allowed up to and inclusive of May 18, 2010, to file a consolidated response to the above listed motions of defendant; and the following motions filed by defendant are **CALENDARED** for hearing on May 20, 2010, at 10:30 a.m. in Courtroom #2 in Asheville:

- (1) Motion for Materials Under Brady and Bagley (#108);
- (2) Motion to Dismiss Count 1 + 2 of the Indictment and Subsequent Conviction -Double Jeopardy (#109);
- (3) Motion to Dismiss Count 2 of the Indictment and Subsequent Conviction -Ex Post Facto Violation (#110);
- (4) Motion for Request for Instructions from Clerk of Court Concerning Method to Subpoena Documents (#116);
- (5) Motions of Defendant (#117);
- (6) Motion of Defendant for Issuance of Subpoenas Duces Tecum" (#118), filed April 29, 2010;

- (7) Motion for a New Trial Under the Cumulative Application of FRCrP 33(a), 48, and LRCrP WDNC 471.1(h)” (#119); and
- (8) Motion for Sanctions Against the U.S. Attorney (#120).

Signed: May 12, 2010

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

